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THE ANGLO-SAXON "TOWNSHIP."

IN recent historical writing dealing with Anglo-Saxon conditions, a great place has been occupied by the "township." The example was set sixty years ago by Palgrave;* but it does not seem to have been generally followed † until in 1874 Dr. Stubbs gave the word a prominent place in his *Constitutional History*. With Dr. Stubbs the "township" was "the unit of the constitutional machinery or local administration"; ‡ and since then most writers on constitutional and legal history have followed in the same direction. The most detailed description of the township was given by Mr. Green,§ who pictured for us its "entrenchments," "the homes within its bounds," and "the dwellers in" it. Professor Cunningham has spoken of "the lands they [*sc.*, the English invaders] had conquered" being "apportioned among the warriors in townships." || Mr. Dowell has given the word the sanction of the historian of taxation. ¶ And, finally, Sir Frederick Pollock, after pointing out how unauthorized is the use of "mark," has observed that "our proper English word [for "the English village community"], and the only one for which there is ancient authority, is 'township,' *afterwards* latinized as 'vill.' "** From England the use of the term has passed to the United States; and it has been popularized especially by that group among the younger historians who have received their training at the Johns Hopkins University. Thus Pro-

* "Anglo-Saxon state composed of townships." *English Commonwealth*, i. 65, marginal abstract.

† "Township" plays no part in the theories of Lappenberg, Kemble, Hallam (*Supplementary Notes*, 1848), and Freeman (*Norman Conquest*, 1867), and is barely mentioned by Pearson (*History of England*, 1867). The only writer, so far as I know, who attached much weight to Palgrave's phrases before 1874 was Sir Edward Creasy. "We may safely follow him," wrote Creasy in 1853, "in taking the Anglo-Saxon townships as the integral molecules out of which the Anglo-Saxon State was formed." *Rise and Progress of English Constitution* (ed. 1886). p. 45.

‡ *Constitutional History*, i. 88 (§ 39).

§ *Making of England*, 180-194.

|| *Eng. Ind.*, i. 60.

¶ *History of Taxation*, i. 5.

** *Oxford Lectures*, 124.

fessor Howard, in his learned and useful work on the *Local Institutional History of the United States*,* begins by stating as an accepted fact that "in the early records of English history the *tunsceipe*, or township, appears as the lowest form of self-government and the primary division of the state."

The language commonly used in this connection need not, perhaps, necessarily be understood as meaning that the phenomenon which the writers have in mind was actually known to the Saxons themselves as a "township" (*tunsceipe*). It may be said that "township" is merely a modern name which it is convenient to apply to it. Yet, certainly, that language usually suggests that it was under that name that the Saxons knew it; and that was evidently the belief of Dr. Stubbs, when he spoke of King Alfred as having "no difficulty in recognizing in the *vicus* of Bede the *tunsceipe* of his own land." †

It is therefore of some interest, at least for historical terminology,—and possibly for other and more important reasons,—to point out that there is no good foundation in Anglo-Saxon sources for such a use of the term; that *tunsceipe* in the few places where it does appear does not mean an area of land, an extent of territory, or even the material houses and crofts of a village; that it is probably nothing more than a loose general term for "the villagers." Some feeling that this is the case has probably occurred to many who have looked into the matter, but I do not know that it has ever been pointed out in print.

Only three passages in Anglo-Saxon literature have as yet been found in which the word *tunsceipe* appears,—the Saxon translation of Bede's *Ecclesiastical History*, v. 10, the laws of Edgar, iv. 8, and the *Saxon Chronicle*, s. a 1137. Of these the first is by far the most important, since it is supposed to establish the equivalence of *tunsceipe* and *vicus*.

In his account of the murder of certain English missionaries among the Old Saxons—*i.e.*, the Saxons of the continent—Bede had paused to remark that "the Old Saxons have not a king, but a great number of satraps set over their nation." He then tells of the murder; and Dr. Stubbs thus comments

* Vol. i. p. 18.

† *Constitutional History*, i. 45 (§ 22).

upon the sequel: "In connection with the same story the venerable historian describes one of these satraps as acting with summary jurisdiction on the inhabitants of a *vicus* which was under the mediate government of a *villicus*. King Alfred, when he translated Bede, had no difficulty in recognizing in the satrap the *ealdorman*, in the villicus the *tungerefa*, in the vicus the *tunscipe* of his own land."

Before looking more closely at the passage, two remarks are in place. The first is of trifling consequence. It is that the only scholarly editor* this old version of Bede has yet found is of opinion that its language is so evidently Anglian that it cannot possibly be attributed to Alfred, and assigns the earliest manuscript of it to the latter half of the tenth century.

The other consideration is more vital. In no other passage of this old English version is there any possibility of asserting that *vicus* is translated *tunscipe*. *Vicus* and *villa* are everywhere else, at any rate, represented by *tun*. The following is, I believe, a pretty complete list of the passages in Bede where *vicus* and *villa* appear:—

iii. 16, viculis	= tunas.
iii. 17, villâ regiâ	= cynelecan tune.
iii. 17, villis regis	= cyninges tune.
iii. 17, vicus	= tun.
iii. 17, vicum	= tun.
iii. 21, vico regis	= tune cyninges.
iii. 22, villa regia	= cynelecan tune.
iii. 22, vico regio	= cynelican tune.
v. 4, villa comitis	= gesithes tun.
v. 12, villulæ	= tunes.

And now, on looking at v. 10, it will be seen that there also the anonymous translator puts *tun* for *vicus*. Bede tells us that, when the *satrapa* (ealdorman) of the Old Saxons heard of the murder, he was wroth, and "mittens occidit *vicanos* illos omnes, *vicumque* incendio consumpsit," which the translator renders "heht thone *tunscipe* ealne ofslean, and thone *tun* forbernan." Thus *tunscipe* here is not a place, or an area, or a district, but a group of persons,—the villagers, the people of the village.

*Dr. Miller, in Introduction to the *Old English Version of Bede's Ecclesiastical History*. Early English Text Society, 1890.

Before turning to the passage from Edgar's laws, let us look at the *Chronicle*, where again the meaning is unmistakable. Speaking of the misdeeds of the barons in the reign of Stephen, the chronicler says, "They laid 'gilds' on the towns (*tunes*), and called it 'tenserie'; and, when the miserable men had no more to give, then plundered they and burned all the towns; and well mightest thou fare a whole day's journey nor ever shouldst thou find a man settled in a town [*in tune sitende*], nor land tilled. . . . If two or three men came riding to a town [*an tun*], all the *tunscipe* fled before them, and weened that they were robbers." * Here, again, the *tunscipe* are the people of the *tun*.

The law of Edgar (iv. 8) ordains that, "if a man, being out on any journey, unintentionally make a bargain without having declared it when he rode out," he shall "declare it when he comes home"; "and, if it be live stock, let him, with witness of *his township* [*mid his tunscipes gewitnysse*], bring it to the common pasture." † Now, it may, of course, be maintained that this implies the formal action of the officials of a district organized for administrative purposes. But it is surely much more likely to have the more commonplace meaning that the man who unexpectedly brings a strange beast into the village, which he says he has bought, is not to hurry it off to the pastures without telling any one about it, but is to publish his story abroad, and put the beast on the pasture under the eyes and with the knowledge of the *other inhabitants of the village*. For let us look at the context. The previous clause says "he who rides in quest of any cattle [*i.e.*, to buy], let him *declare* (beforehand) *to his neighbors* about what he rides." And in this clause itself the law goes on to order that, if the bringer of the strange cattle do not call in the "witness" within five days, "the town's men" are to declare it to the "ealdor" of the hundred; "and let them be exempt from 'wite,' both themselves and their herdsman, and let him forfeit the cattle who brought it thither, *because he would not declare it to his neighbors* [*his neah-geburum*]." ‡ And, when we add to the

* Earle, *Two of the Saxon Chronicles parallel*, 262.

† Thorpe's translation in *Ancient Laws and Institutes* (fol. ed.), 116.

‡ It may be noticed that this law of Edgar seems to assume that every *tun* is subordinate in some sort of way to a "*landrica*"; for it orders that half the forfeited cattle are to go to the *landrica*, half to the hundred.

argument from the context, that fairly deducible from the proved meaning of the word in the two other places, it is difficult to see how there can any longer be much doubt. Schmid, with only this passage before him, had apparently no hesitation in defining *tunscipe* as "die *Bewohnerschaft* eines tun."* The formation of the word may be roughly paralleled with that of *geferscipe*, a body of companions on a journey, or *gebeorscipe* (= beer-ship), a drinking party (convivium), in the story of Caedmon.†

The later history of the word "township" would probably repay investigation. It is certainly not a common word in literature until comparatively recent times; and, where it does appear, its old meaning seems often to cling to it. At least, such a meaning is just as fairly assignable to it as the more formal and institutional one. This is the case in the one passage in which it occurs in Shakspeare: ‡ —

Suffolk. . . . What's here? [*Reads.*] "Against the Duke of Suffolk for enclosing the commons of Melford." How now, sir knave?

Second Petitioner. Alas, sir, I am but a poor petitioner of our whole township.§

So also with the certificate of the sale of church plate (1547) in the parish of Beccles. "Beccles . . . sold anno primo Edward sexti Regis, etc., by the *townshype and Churchwardens* so much plate as amounteth to the sum of xli." ||

Yet as early as 1414 the word had begun to be used for a certain local area.¶ In a petition of that year — the first Eng-

* *Gesetze der Angelsachsen*, Glossar, s.v.

† *Old English Version of Bede's Ecclesiastical History*, iv. 24.

‡ *Second Part of King Henry VI.*, Act I., Scene 3.

§ Here Schmidt, *Shakespeare Lexicon*, — looking at the passage, we may suppose, without constitutional prepossessions, — defines "*Township*: The body of the inhabitants of a town."

|| *East Anglian*, May, 1885, quoted by W. F. Allen, *Monographs and Essays*, 269.

¶ It is very probable it was used a good deal earlier. *Tunscipemot* occurs in certain charters of Richard I. and John; but, as Professor Maitland observes (*Law Quarterly Review*, ix. 226), its occurrence here "in close connection with the 'hustings' and the 'portmanemot' suggests that it was chiefly within the cities and boroughs that a township-moot was to be found." It is significant that in Stratmann's *Dictionary of the Old English Language* (3d ed., 1878), "compiled from writings of the twelfth, thirteenth, fourteenth, and fifteenth centuries,"

lish petition on the *Rolls of Parliament*—we find “the manor and township of Chestreton.”* And in the sixteenth century the word was quite commonly used by the translators of the statutes as the equivalent for “ville.”

Nevertheless, there is a good deal to make one believe that *town* continued to be the common popular term for what we may describe in general language as a rural centre of population even into the eighteenth century. Chaucer’s model priest from the country was “a poure persone of a toun.”† The enclosure act of 1488–89 speaks of the “pulling-down of townes,” and of “townes” where “two hundred persons were occupied, and now be there occupied ii or iii herdemen.”‡ The sixteenth-century translation of the Ordinance of Laborers of 1349, as well as that of the Statute of Laborers of 1360–61, uses *toun* for *villa* and *ville*.§ Lever, preaching in 1550, describes how, before the Reformation, “there were in some townes 6, some 8, and some 12 kyne, given unto a slock for the relief of the poor.”|| In a *Certificate of Church Goods* in Suffolk, in the *Customary* of Tettenhall Regis (1604), and in Colonel Hutchinson’s *Memoirs* “town” is used for “manor”¶; while the same *Certificates* of church goods of 1547 give abundant examples of its use for “parish.”** Coke translates Littleton’s statement, “chescun burgh est un ville, mes nemy è converso,” “every borough is a town, but not è converso”; and goes on to comment: “It cannot be a town in law unless it hath, or in times past hath had, a church and celebration of divine service, sacraments and burials. . . . There be in England and Wales eight thousand eight hundred and three towns

though there are some fifteen references for *tun* in various senses, there is but one for *tunscepe*; and that is the passage in the *Anglo-Saxon Chronicle* already discussed.

* *Rot. Parl.*, iv. 57. I owe this reference to Mr. Oliphant’s *New English*. Mr. Oliphant speaks of “township” as a “new word.”

† *Canterbury Tales*, Prologue, l. 480. He had a “wide parish,” and his brother was a “plowman.”

‡ 4 *Hen. VII.*, c. 19; *St. of R.*, ii. 542.

§ *St. of R.*, i. 307, 367.

|| Lever’s *Sermon before the King*, Arber’s Reprint, 82.

¶ Quoted in Allen’s *Monographs*, 273, 275.

** *Ibid.*, 268, 269. For other examples of the equivalence of *town* and *parish*, circa A.D. 1600, see Professor Channing’s convincing essay on *Town and County Government in the English Colonies* (1884), 9–11.

or thereabouts."* The Act of 13 & 14 Charles II., c. 6, groups together "parish, *town*, village, or hamlet";† and Mr. Toulmin Smith gives long extracts from the records of the parish of Ardley in Hertford for the period 1707-1831, found in a volume marked "The Towne Book."‡ Even to-day there are parts of England where "town" (in Yorkshire pronounced *toon*) is still the rustic term for village.§

That in particular cases "town" (*villa*), "manor," and "parish" often did not coincide is very apparent. There were many instances of parishes including more than one town; but the above instances make it clear that in common usage, over a large part of the country, the three terms were equivalents. Thus Coke declares, "By the name of a town, *villa*, a manor may pass," and, in another place, "If a matter be alleged *in parochia*, it shall be intended in law that it containeth no more towns than one, unless the party doth shew the contrary."||

It may be added that the far more general use of the word *town* than of *township* in early New England is most naturally explained by supposing that it was the word ordinarily employed in England at the time of the migration,—at any rate, in East Anglia. And it is worth while to recall the common use of *town* for the village on a landlord's estate in Ireland,¶ and its appearance in the same sense in Southern Scotland.**

* *Co. Lit.* [115 b], sect. 171.

† Cited by Toulmin Smith, *The Parish*, second edition, 108. ‡ *Ibid.*, 525.

§ See the *Provincial Dictionaries* of Halliwell and Wright, and, better still, Morris, *Yorkshire Folk Talk*, and Baker, *Northamptonshire Glossary*.

|| *Co. Lit.* [5 a], sect. 1; [125 b], sect. 193. For this latter reference I am indebted to the courtesy of Sir Frederick Pollock.

¶ A good instance is given in Miss Edgeworth's *Absentee*, where also the circumstance that the authoress thinks it necessary to add an explanation shows that she supposed the word would be strange to her polite readers: "He arrived at a village, or as it was called a town, which bore the name of Colambre . . . Lord Colambre . . . asked him to whom the town belonged, and who were the proprietors of the neighboring estates. 'The town belongs to an absentee lord, — one Lord Clonbrony'" (chap. ix.).

** *E.g.*, the "auld town" of St. Ronan's. *St. Ronan's Well*, chap. ii. See also the examples in Jamieson, *Dictionary of Scottish Language*, especially of "town-gate" for village street in the south.

If, then, it was *town* that the country folk themselves were wont to speak of, it is a little difficult to understand how *township* has obtained its literary prominence. It is probably the result, in the main, of the employment of *town*, from a period at least as early as the sixteenth century,* for an urban centre, — as an equivalent, in short, for *urbs*. This itself, of course, is not an ultimate fact, and needs explanation. But it is easy to see that, when this other use became common in cities and boroughs, writers who addressed themselves to an urban public would feel the need of a word not liable to misunderstanding, and would tend to adopt *township*. The country folk themselves would not feel the ambiguity, and would continue to speak of their *towns*. It may not be far-fetched to suggest that there is a further and even more literary explanation of the prominence given to the word *township* by recent writers. The late Professor Allen, of the University of Wisconsin, has commented † on the curious fact that, although “at present the word ‘township’ is not in use in New England, except occasionally . . . and never as a body politic,‡ it is the word, *fashioned upon by De Tocqueville*, that is regularly used by foreign writers to describe the New England town system.” De Tocqueville was doubtless unconsciously influenced by the contemporary English literary use of *township*; but it does seem very probable that his employment of the word gave it a dignity, a sort of politico-philosophical propriety, in the eyes of his contemporaries which it had never enjoyed before, and which not a little influenced even the most scholarly historians. §

* It is commonly so, for instance, in Shakspeare.

† *Monographs*, 269.

‡ It is now currently said that “township” is only accurately used for the area or stretch of land, and that “town” is the only proper term for the body as a juristic person, or as a political or administrative organism. How far this agrees with seventeenth-century usage I am unable to say. Freeman’s *Town Officer* (for Massachusetts), which passed through several editions at the end of the eighteenth and beginning of the nineteenth century, seems to use “town” alone, and speaks not only of “the power and duty of towns,” but of “inhabitants of a town.”

§ *La Démocratie en Amérique*, chap. v. Mr. Bryce, *American Commonwealth*, chap. xlviii., returns to the more accurate term “town.” He gives a quotation from Jefferson, “Those wards called townships in New England,” which may help to explain whence De Tocqueville got the word.

To return to Anglo-Saxon times. It might very naturally be said that the effect of the foregoing argument is no more than to replace "township" by "town," and that such a change is immaterial,—that it is a difference between tweedledum and tweedle-dee. I cannot help thinking, however, that the adoption of a more correct terminology will be of scientific advantage; and for this reason. So long as we speak of the Anglo-Saxon "township" we can hardly help attaching to the word somewhat of the meaning which it has borne since the sixteenth century. We think of it as an area inhabited by freemen with an administrative machinery in the hands of an assembly of those inhabitants and of officers chosen by them. We start, therefore, with a sort of unconscious presumption that the "township" was what we call "free."* Townships under a lord we speak of as "dependent townships"; and we can hardly help thinking of them as exceptional or as later than the free ones. Now, it is this question as to the position of the body of the population in the earliest Anglo-Saxon times that is just now at issue; and no student would say that at present the question is settled. And, while that is so, it is surely better to use a terminology which is as far as possible from suggesting an answer which we are not yet in a position to prove,—to say simply that we know of the existence among the Saxons of *villae* and *vici* and *tuns*, and there for the present leave the matter.†

So far we have been dealing with a narrowly limited mat-

* Cf. Stubbs, *Constitutional History*, i. 89.

† It is not, however, unfair to add that the use of *tun* itself may be adduced as strengthening somewhat the argument for supposing that the later "towns" grew up around seigniorial or dominical households. *Town* is still used in Scotland for a single farmstead. In Devonshire and some other parts of England it is used for the court or farm yard. In Ireland *tun* denotes "the manured grass-plot, enclosed within a low green bank or raised dyke, which surrounds the farm-house." This is in perfect harmony with the accepted derivation of the word, which interprets it as an "enclosure," and connects it with the German *Zaun*, a hedge. But there seems no reason for supposing that whole villages were enclosed,—either the whole land of the village (as Nasse understands Kemble to mean, and, as he justly says, is inconsistent with the later history of enclosures) or merely the group of village homesteads (as Nasse conjectures, *Agricultural Community*, 15). If so, the application of the term to a village must be a secondary use, and may very well have come to it from the fact (if true) that it grew up around the *tun* of a lord. *Town*, in brief, suggests the same sort of *prima facie* argument as *villa*.

ter,—the use of the word “township,”—and engaged in the interpretation of certain definite citations; and this was the only object of this paper. But it can do no great harm to tack on to this some speculations as to the history of the “tun” itself, if it is distinctly stated that they are but tentative speculations, thrown out by way of experiment.

From the earliest time for which we have any information there were *villae* and *tuns* scattered over England. The appearance of the two terms is practically contemporaneous. *Tun* occurs first, in an authentic document, in a charter of A.D. 674, where Wulfhere of Mercia sells to a relative “*aliquam partem agri in hereditatem perpetuam, id est v. manentes, ubi ruricolis nominantur Dilington, cum campis et silvis et omnibus utensilibus ad isto agro pertinente*”;* while *villa* confronts us again and again in Bede’s *Historia Ecclesiastica*. Now, Bede was born A.D. 672, and ceased writing his *Ecclesiastical History*, which he had probably begun some years before, in 731. The “king’s tun,” the “earl’s tun,” and “a man’s tun” do indeed occur in the laws of Ethelbert of Kent,† assignable to *circa* A.D. 600. It must, however, be remembered that the editors of the Anglo-Saxon laws are agreed that “it would be unreasonable to suppose that these laws have descended to us in their primitive state,”‡ though they probably contain the substance of some of Ethelbert’s enactments; so that it were unsafe to lay any great stress upon them.

It can hardly be disputed, also, that the words were equivalents, though we have no examples of translation before the tenth century.§ Accordingly, we should hesitate, I think, before speaking either of *tun* being “latinized” as *villa* or *villa* being “anglicized” as *tun*. To say that *tun* was latinized “afterwards” as *villa* is to suggest that the English institution was

* Earle’s *Land Charters*, 4.

† §§ 5, 13, 17.

‡ Thorpe, *Ancient Laws*, Preface, iv. Cf. Schmid, *Gesetze*, Einleitung, xxx: “Es ist schwer zu glauben dass derselbe uns die Sprache Æthelbirhts treu wiedergegeben habe.”

§ Besides the *Old English Version of Bede*, see the charter of A.D. 940, granting land at “Oswalding villam,” with its contemporary endorsement, “Oswalding tun,” in Kemble, *C. D.*, cccxxxv., and Earle, 175. Cf. the charter of 780, *C. D.*, cxl., where of four *villulae* the names of two end in *tun*.

really known only as *tun*, and that scholars consciously sought for a designation in a dead language, and chose *villa*,—perhaps unwisely. It would be truer, probably, to say that people who used English commonly called the thing *tun*, and people who used Latin called it *villa*.* To determine what proportion of the inhabitants spoke of it under one name and what under the other, we should have to answer the question, still hotly disputed, as to whether the Provincials survived under new masters. It must be allowed that *villa* does not survive in place-names to anything like the same extent as *tun* or *ham*, or as *ville* survives in Gaul. Such a phrase as "ubi ruricoli nominantur Dilingtun" in the charter of A.D. 674, or "in vico regio qui dicitur Rendlaesham,"† is good evidence that then and there a name of English origin was used. Yet in his *Life of the Abbots of Wearmouth* Bede tells us of "terra viginti familiarum in loco qui incolarum lingua *Ad Villam Sambuce* vocatur."‡ And Professor Earle has shown some reason for believing that *villa* has survived to a larger extent than we had imagined, and that "it is obscurely embedded in some of our place-names."§

But what were these *villae* and *tuns*? It is very possible that some, both of the *villae* and of the *tuns*, were still simply "country-houses" with enclosed farmsteads, but without any group of residents around them except the handful of persons who formed the family and household of the owner. It is quite conceivable that in some cases they were groups of free proprietors living together in villages. But it is far more probable that in most, if not all, cases they were private estates, having upon them villages of dependants of various de-

* We commonly think of these latter as only a few clergy. There is, however, a passage in Bede which would seem to imply that Latin was known to some extent by a good number of people. "Haec [insula] in praesenti quinque gentium linguis unam . . . summae veritatis . . . scientiam scrutatur et confitetur, Anglorum videlicet, Brittorum, Scottorum, Pictorum et *Latinorum*, quae [sc. Latinorum lingua?] meditatione scripturarum ceteris omnibus est facta communis" (lib. i. cap. 1).

† Bede, *Historia Ecclesiastica*, iii. 22.

‡ *Vita Abbatum Wiremuthensium*, in *Complete Works of Bede*, ed. Giles (1843), iv. 386.

§ "The Villa and the Manor," in the *Economic Journal*, ii. 744.

grees, from slaves up to free tenants. If we assume, as Gibbon did,* that the English conquerors would find it "their interest to preserve the peasants as well as the cattle of the unresisting country," no difficulty will remain: we shall conclude that the estates known as *villae* of the Roman time survived with much of their old organization and population, to become the nuclei round which would grow up the later manors. And we can draw this conclusion without necessarily imagining that every English warrior who did not become the lord of a *villa* became a serf. It is very possible that there was a considerable number of free English proprietors at first, who were gradually drawn into the vortex of manorial formation around the *villa* nuclei. But, if Gibbon's assumption seems too hazardous, there are other and independent reasons for the same view as to the Anglo-Saxon *villa* or *tun*. In the first place there can be little doubt that, at the time when Bede wrote, *villa* elsewhere in Western Europe commonly denoted an estate with dependants upon it.† The burden of proof is upon those who would assert that Bede used it in any other sense. In the second place, the earliest charters of land use as the units of measurement *cassati*, *manentes*, and *tributarii*, either actually transferring so many *cassati*, etc., or the land of so many *cassati*.‡ Now, these were quite common terms on the continent for prædial serfs and their holdings;§ and it would be very odd if the terms had been used here without similar classes having existed.|| Moreover, some of the earliest grants of such more or less servile holdings describe them as being "*in* [more

* *Decline and Fall*, chap. xxxviii.

† As far as I can make out, this does not seem to be denied even by M. Flach, who, in his *Origines de l'Ancienne France* (1893), has taken up the cudgels against M. Fustel de Coulanges, and has tried to make out that the Frankish *villae* were in some cases independent villages.

‡ *Cassati* and *manentes* occur on every page of Earle's *Land Charters*. For *tributarii* see charters of A.D. 693, *C. D.*, xxxvi., 725, *C. D.*, m., and 780, *C. D.*, cxl.

§ On *tributarii* see Waitz, *Deutsche Verfassungsgeschichte*, ii. 223, 224.

|| It is true that these terms do not appear outside the land charters; but then our evidence is very scanty. The forms of the charters may have been awkwardly copied from Italian precedents. Still, the conditions cannot have been altogether dissimilar, or it would hardly have been possible to estimate the size of an estate by the number of such tenures. Cf. Hallam, *Middle Ages* (ed. 1870), ii. 366.

rarely "ubi"] the place called (such and such a) *tun** or *ham*,"† and go on to speak of the appurtenant enjoyment of fields, pastures, meadows, etc. That is, they imply that the *tun* or *ham* was some part of a larger unit, made up of a number of such servile holdings with their appurtenances, much in the same way as the later manor was made up of plough-lands or yard-lands. And, in the third place, it is a curious circumstance that, whenever Bede speaks of a village (*vicus*, in the old English version *tun*),—such as, if we had no farther information, we might suppose to be a village of free proprietors,—he either adds some such word as *regis* or *regius*, or speaks of it later as *villa*; and in the same way that, when *villa* alone is used, it is either qualified by *comitis* or *regis*, or is the subject of a grant.‡

The earlier *tun* or *ham* or *villa* was thus, in all probability, usually an estate containing upon it a group of dependants living together in what we may call a *village*. And the view of social evolution to which such a conclusion brings us is that "the village community" of later times, so far as it existed, was in large measure the result of the common bond or tie to the proprietor, the lord, or seigneur.§ The sense of community of interests, the habit of joint action created by seigneurial or, to use Professor Earle's term, dominical pressure, would survive, and even for a time grow stronger as the grasp of the lord was loosened. And so out of the dependent group would slowly grow the "town" and "township,"—the latter originally the "villagers" or "townsfolk" in a loose sense, then coming to be associated with the idea of corporate unity, like *villata*, and then naturally being extended to the area cultivated by the villagers. Out of it would arise much of the "parish" machinery of later times; and, in places favored

* *E.g.*, charters of 674 (Earle, 4) and 714 (*C. D.*, xlvii.).

† *E.g.*, charters of 692 and 704, *C. D.*, xxxv., lii.

‡ See the list given above. The only exception is the *vicus* among the Old Saxons; about which we are only told that it had a *villicus* who was in some unexplained way subordinate to a *satrapa*.

§ The necessary co-operation of the open-field system of husbandry had certainly much also to do with it; but that opens another field of inquiry, which we cannot enter here.

by circumstances, municipal self-government would also find there its beginning.

But we must not antedate the various stages in this process. When we come to look up the authorities that are given for the "functions" of the Anglo-Saxon "township," it is startling to find how they slip from between our fingers. No scholar is now inclined to build much upon the single appearance of *mearc-mot* in a document professing to be of A.D. 971, and regarded by Kemble himself as of doubtful authenticity.* But it is hardly realized that with the disappearance of *mearc-mot* disappears all the *Saxon* evidence for a township assembly of any sort. Important administrative functions have been assigned to the Anglo-Saxon township: "it carried into effect the requisitions of the higher courts in the way of taxes and other exactions, the pursuit of criminals, and the search for stolen goods";† and four passages are cited from the laws. One only of these is early. It is a clause of the laws of Hlothere and Eadric.‡ This happens to be one of the most obscure, and probably corrupt, passages in the laws,—a passage which Schmid gives up the attempt to translate; and all that can be made out of it is that, if a man is accused of stealing another, he is to swear to his innocence with the help of certain compurgators, "each in the *tun* to which he belongs." Possibly the ceremony took place before the altar of the village church,—a most natural thing to do, and implying very little function on the part of the townfolk except that of "occasional crowd." The next is that requirement of Edgar's already discussed, which requires the witness of the neighbors, when cattle have been acquired. The third is another clause of the same set of laws: § "I will that townsmen (*tunes-men*) and their herdsman have the same enquiry concerning my live cattle and that of my thegns as they have concerning their own. But if my reeve, or any other man, more or less powerful, shun this, and command things unseemly, either to townsmen or their herdsman, *let the Danes choose*, according to their laws, what punishment they will

* C.D., DLXVIII. See also Earle, *Land Charters*, xlv., and Pollock, *Oxford Lectures*.

† Stubbs, *Constitutional History*, i. 97.

‡ Sect. 5.

§ iv. 13.

adopt respecting him."* This is certainly far from lucid. And the fourth passage comes from the laws of Ethelred,† assignable to so late a date as A.D. 997. This simply says that "he who robs a man in broad daylight, and he [*i.e.*, the robbed] declare it in three *tuns*, (he) shall not be entitled to any frith"; *i.e.*, apparently, the robbed person can take summary vengeance, or get it taken, on the criminal, if he first makes the business known in three neighboring villages. In all these laws there is scarcely any trace of formal administrative or police action on the part of the *tun* or (its supposed) officers. What most nearly approaches to it is the clause in Edgar's Ordinance of the Hundred, in the second half of the tenth century, requiring the assistance of the "tithing men" in the pursuit and punishment of thieves.‡ But the relation of the "tithing" to the "town" is a tangled mystery, upon which it were rash to enter here. It is with the "town" and "township" that we are now dealing; and one is very much inclined to agree in the sweeping statement that the Anglo-Saxon township (or tun) "had not a single constitutional function of any kind, sort, or description."§

One supposed function — and that, if real, an important one — still, however, remains to be considered. The township, it is said, "arranged the representation of its interests in the courts of the hundred and the shire where the *gerefa* and four best men appeared for the township."|| And, again, "in the *free* townships the reeve and the four best men were the legal representatives of the community in the court of the hundred and the shire."¶ The one authority cited is "the laws of

* Thorpe's translation, *Ancient Laws*, 117.

† iii. 15.

‡ Edgar, i. 2.

§ *North American Review*, July, 1874 (vol. cxix. p. 239).

|| Stubbs, *Constitutional History*, i. 97.

¶ *Ibid.*, i. 102. Such a statement lends itself very easily to political philosophizing. Thus Mr. Gardiner, speaking of "the institutions of the [English] settlers" in Britain, compares them with those of the Roman Empire thus: "The organization of which he [every freeman] formed part did not, as in the empire, reach from the state to the individual, but from the individual to the state. Every township . . . made its appearance every month in the hundred mote to decide quarrels and witness contracts." Gardiner and Mullinger, *Introduction to the Study of English History*, 18. So, also, Mr. Fiske contrasts the "Roman Idea and English Idea," or Non-representation and Representation, thus: "In the [Anglo-Saxon] county meeting we may observe a singular feature, something never seen before

Henry I." Now, these "laws" are an unauthorized compilation, assigned by Dr. Liebermann to the period between 1108 and 1118. It is possible — nay, probable — that "they contain very many vestiges of ancient English jurisprudence." But it would be eminently unsafe to select any clause as containing such a "vestige," unless the archaic nature of the ordinance were clearly proved by other evidence. And, after all, what precisely do these laws say? * In the paragraph dealing with the county courts it declares: —

§ 7. Si quis baronum regis vel aliorum comitatus secundum legem interfuerit, totam terram, quam illic in dominio suo habet, adquietare poterit. Eodem modo est si dapifer ejus legitime fuerit. Si uterque necessario desit, prepositus et sacerdos et quatuor de melioribus villae adsint pro omnibus qui nominatim non erunt ad placitum submoniti.

§ 8. Item in hundredo decrevimus observandum de locis et vicibus et judicium observantiis, de causis singulorum justis examinationibus audiendis, de domini et dapiferi VEL sacerdotis et praepositi et meliorum hominum presentia.

Is it necessary to point out that what this anonymous writer of the beginning of the twelfth century says is that the priest and reeve and the rest are to attend only if the lord or his steward are obliged to be absent, and that he assumes that there is a lord as the normal condition of things? †

in the world, something destined to work out vaster political results than Cæsar ever dreamt of. This county meeting is not a primary assembly: all the freemen from all the townships cannot leave their homes and their daily business to attend it. Nor is it merely an assembly of notables, attended by the most important men of the neighborhood. It is a representative assembly, attended by select men from each township. We may see in it the germ of the British parliament and of the American congress, as indeed of all modern legislative bodies." *The Beginnings of New England*, 28.

* *Leges Henrici Primi*, vii. 7, 8; Schmid, *Gesetze*, 440.

† Mr. Bigelow, *History of Procedure in England*, 134, argues as follows: "The statement that the reeve, priest, and four men represented the lower classes" (which is hardly the exact case), "when the baron and his steward were necessarily detained, probably does not mean that the attendance of such representative persons was dependent upon the absence of the baron and steward, but that, if the latter were excusably absent, then the lower classes, such as were represented by the baron and his steward, when present, were to be represented by the delegates attending with the parish priest. And, if this be true, it follows that this delegation (being regularly present) properly and always represented others than those represented by the barons." I must confess that this seems a mere juggle with words, occasioned by the assumption that this "regular presence" of the "delegation" is beyond question, forgetting that this particular passage is the

The only reason that remains for attributing to the Anglo-Saxon "township"—*i.e.*, town—certain functions of the kind we have been looking for is the argument from supposed "survivals."* The courts of the manors, and the parish meetings of a later date, had certain features, which, if we start with an unconscious presupposition as to the original constitution of Anglo-Saxon society, may easily strike us as "archaic," as "vestiges" and "survivals." But this is one of the most dangerous of arguments. Every one of those customs and features may be just as well—in default of evidence to the contrary—regarded as the outcome of an evolution *away from* the original condition. What is vitally necessary and alone sufficient is early evidence as to the early condition itself.

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only evidence. The utmost that can be said is that here we may see the very beginnings of the idea of representation. But it should not be forgotten that the same compilation says of the county courts, "Intersint episcopi . . . praepositi, barones, vavassores, tungrevii et *cacteri terrarum domini*" (vii. 2); and "Regis iudices sunt barones comitatus, *qui liberas in eis terras habent* . . . *villani vero vel cotseti* . . . *non sunt inter legum iudices numerandi*" (xxix. 1).

*I have since observed that Dr. Stubbs makes somewhat the same concession in regard to representation in the county court (*Constitutional History*, i. 128). This point, he says, "left questionable in the laws, is *proved* by the later practice"; and he refers to the county courts of Henry III. But it is difficult to see how the practice of 1231 can *prove* anything as to 1066, unless we suppose social and political conditions to have remained unchanged. But this was far from being the case. In a foot-note Dr. Stubbs asks us to compare certain four passages from Domesday. Three of these have no suggestion of representation. The only one that has is the case of Archenfield (i. 179), where "*si vicecomes evocat eos ad sciremot, meliores ex eis, vi aut vii, vadunt cum eo*." But Archenfield (later known as Irchenfield) was not a manor in the sense in which the word was used in England proper. It was a considerable tract on the Welsh border, containing several villages, where the king had "*c homines . . . qui habent LXXIII. car' cum suis hominibus*." That six or seven of these vassals (homines) should attend the shiremoot indicates little as to the practice in the cases of manors of the English type. Cf. Camden's *Britannia* (ed. Gibson), i. 491.